

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL STOLLENWERK,	:	CIVIL ACTION
	:	
Plaintiff	:	
	:	
v.	:	
	:	
JEFFREY B. MILLER, et al.,	:	
	:	
Defendants	:	No. 04-5510

ORDER

And now, this day of , 2007, upon
consideration of the parties' Joint Motion to Modify May 3, 2006 Order, it is
hereby ORDERED that said motion is GRANTED. It is further ORDERED that:

1. The court's May 3, 2006 order (Document No. 57) is MODIFIED IN
PART (to delete the words following "effect" and replace them as specified in ¶ 2
below); and

2. In lieu of the first paragraph of the May 3, 2006 order as originally
issued, the court hereby ORDERS:

And now this 3rd day of May, 2006, Defendants' Motion to Alter Judgment (Document 44) is DENIED on grounds a training manual and a model arrest report, no longer in use, are not "a system of records in existence and operating before January 1, 1975." Privacy Act of 1974, Pub. L. No. 93-579, § 7, 88 Stat. 1896, 1909 (1974), reprinted in 5 U.S.C. § 552a note (2003). This Court's Order of February 27, 2006 remains in effect. It is further DECLARED that, under Section 7(b) of the Privacy Act, "Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it." It is also hereby DECLARED that the required

warnings of Section 7(b) are applicable to Pennsylvania's Uniform Firearms Act, i.e., that the requirement of a Section 7(b) warning applies to requests for disclosure of an individual's social security number in an application to purchase a firearm and in an application for a license to carry a firearm.

BY THE COURT:

Juan R. Sanchez, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL STOLLENWERK,	:	CIVIL ACTION
	:	
Plaintiff	:	
	:	
v.	:	
	:	
JEFFREY B. MILLER, et al.,	:	
	:	
Defendants	:	No. 04-5510

JOINT MOTION TO MODIFY MAY 3, 2006 ORDER

Plaintiff Michael Stollenwerk and the Commonwealth defendants, Jeffrey B. Miller and John K. Thierwechter, (collectively, “the parties”), by their respective counsel, hereby move to modify the court’s May 3, 2006 order in this matter. In support of the instant motion, the parties state:

1. The Commonwealth defendants filed an appeal from the order entered herein on June 6, 2006, denying their second motion to alter or amend the judgment against them in this Privacy Act case.

2. The Commonwealth defendants’ appeal did not question the substance of this court’s February 27, 2006 ruling on the merits of plaintiff Stollenwerk’s Privacy Act claim; nor did the appeal question the court’s June 6, 2006 award of attorney’s fees to plaintiff Stollenwerk. Rather, by their appeal the Commonwealth defendants sought to challenge this court’s decision not to modify its May 3, 2006 order (denying their first motion to alter or amend), insofar as that order had not only reaffirmed but also apparently broadened the

relief originally afforded by the court in its February 27, 2006 Memorandum and Order. The problem that the Commonwealth defendants perceived was that the May 3, 2006 order amounted to an injunction affirmatively requiring them to take certain action with respect to all firearm permit “applicants,” not only plaintiff Stollenwerk.

3. In accordance with the Court of Appeals’ Appellate Mediation Program, the Commonwealth defendants’ appeal was assigned for mediation.

4. After a telephone mediation session, various follow-up conversations, and extensive negotiations, the parties agreed to certain revised language to be substituted for the passage in the May 3, 2006 order of this court that gave rise to the Commonwealth defendants’ appeal. The proposed revised language is intended only to clarify one aspect of the May 3, 2006 order (see ¶ 2 above); it does not affect this court’s summary judgment ruling or its subsequent attorney’s fees ruling.

5. The parties advised Third Circuit Mediation Program Director Joseph A. Torregrossa of their agreement. Thereafter, Mr. Torregrossa advised the parties that he had conferred informally with the district court, and the court had expressed willingness to enter a revised order in accordance with the parties’ agreement, if doing so would fully resolve this matter.

6. Pursuant to Mr. Torregrossa’s suggestion, the Commonwealth appellants then filed an uncontested motion for a partial remand of this action, setting forth the above facts and requesting an order returning the case to this

court for further action to implement the parties' agreement. The Court of Appeals duly granted the motion for partial remand.

7. Accordingly, the parties now ask this court to enter a revised order, substantially in the form attached hereto, modifying the May 3, 2006 order consistent with their agreement.

8. Assuming this court revises its May 3, 2006 order, as outlined above, the parties will then submit a stipulation to the Court of Appeals to dismiss the Commonwealth defendants'/appellants' pending appeal in all respects.

Respectfully submitted,

GIBBEL, KRAYBILL & HESS

By: /s/ J. Dwight Yoder

41 East Orange Street
Lancaster, Pa. 17602
Phone: (717) 291-1700
Fax: (717) 291-5547

J. Dwight Yoder
Attorney I.D. No. 81985
Attorney for plaintiff

THOMAS W. CORBETT, JR.
Attorney General

By: /s/ Claudia M. Tesoro

Office of Attorney General
21 S. 12th Street, 3rd Floor
Philadelphia, Pa. 19107
Phone: (215) 560-2908
Fax: (215) 560-1031

Claudia M. Tesoro
Senior Deputy Attorney General
Attorney I.D. No. 32813
Attorney for Commonwealth
defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL STOLLENWERK,	:	CIVIL ACTION
	:	
Plaintiff	:	
	:	
v.	:	
	:	
JEFFREY B. MILLER, et al.,	:	
	:	
Defendants	:	No. 04-5510

CERTIFICATE OF SERVICE

I, Claudia M. Tesoro, hereby certify that the foregoing joint motion has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System. I further certify that a true and correct copy of this motion was served on February 1, 2007, by electronic mail notification to:

dyoder@GKH.com

THOMAS W. CORBETT, Jr.
ATTORNEY GENERAL

By: /s/ Claudia M. Tesoro

Claudia M. Tesoro
Senior Deputy Attorney General
Attorney I.D. No. 32813

Susan J. Forney
Chief Deputy Attorney General

Office of Attorney General
21 S. 12th Street, 3rd Floor
Philadelphia, Pa. 19107
Phone: (215) 560-2908
Fax: (215) 560-1031